

**CONFIDENTIAL**

OLC 75-2677

21 October 1975

## MEMORANDUM FOR THE RECORD

SUBJECT: Liaison

1. I met with Mike Finley, on the staff of Representative Fascell's Subcommittee, to discuss the Subcommittee's request for documents related to the Mayaguez incident.
2. I mentioned to Mr. Finley that since Representative Fascell had been so cooperative in getting GAO out of the picture that we wanted to do all within our power to be responsive to the Subcommittee's request. However, we had problems with providing much of the material asked for as it was material controlled by the White House or the NSC and we could not release it. I proposed that we brief the Chairman and Finley on CIA activities in the Mayaguez matter and that after the briefing we discuss any additional information which they might need. Finley was testy and seemed to bristle at my proposal. He said as far as the Subcommittee was concerned any documents in the possession of any agency in the Executive Branch could not be withheld from Congress unless the President exerted Executive privilege. In other words, the third agency rule did not apply. He did allow that documents prepared by the White House and NSC were in a special category but that contributions by agencies to those bodies were not. He used the word "coverup" several times. After his initial attack, he did become more reasonable and made some concessions.
3. As to a briefing, he stated that he was basically against it for three reasons. There would be no record that could be referred to, other members of the Subcommittee might want to sit in on the briefings and this could cause problems of secrecy, and last, that he did not have the background to ask the right questions. He then asked that if such a briefing were held could a GAO representative sit in. I told him I would have to discuss that aspect and get back to him. It was evident that he intends to show whatever documents we forward to GAO representatives making the survey on behalf of the Subcommittee. He said he would discuss the matter with Representative Fascell and get back to us. I then suggested that if they would not be happy with the briefing that perhaps they could make the request in writing, reducing the all-inclusive request of GAO to something more within our ability to respond. He did agree to make the request in writing but took under consideration whether to eliminate some of the items GAO had

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requested. We then went through the GAO letter item by item and I indicated the things which we could release and those we could not.

4. The session ended with Finley somewhat mollified, but just what will come out of it is hard to determine. I will put together a package of the documents that we can release and get necessary approvals to have them ready.

5. Finley did mention that the Subcommittee had two ways to go. One was to press the request for documents and raise hell if they did not get them. The other is to complete their report without asking for the documents in writing and forward the results to Chairman Morgan with a list of unanswered questions which Morgan should look into. This latter possibility was merely passing the buck based on jurisdictional grounds. Finley said that he just might recommend passing the buck.



Assistant Legislative Counsel

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